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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,753	08/21/2003	Bertho Boman		8055
7590	07/15/2005		EXAMINER	
KENNETH E. MERKLEN 11151 N.W. 15th Street Coral Springs, FL 33071-6421			NOLAND, KENNETH W	
			ART UNIT	PAPER NUMBER
			3653	
			DATE MAILED: 07/15/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/645,753	BOMAN, BERTHO
	<b>Examiner</b>	<b>Art Unit</b>
	Kenneth W. Noland	3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-21 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to this, claim 1 , on line 7 " a guide means" is recited, however on lines 4 and 5 "a guide means" is also recited . Are these different guide means? Correction is required. In claim 15 , on line 13 " a port means" is recited , however on line 10 " a port means" is recited. Are these different port means? Correction is required. Finally, in claim 21, on line 2, the recitation of "said reversible drive means' does not have proper antecedent basis in the claims. Correction is required.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5,8,10,15,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Taketsugu et al in view of Cunningham. As the claims would be understood, Taketsugu et al shows in figure a support 19 for a stack of articles considered to have an opening (slot) at its lower surface for the means 3 to move there along to remove the lowermost article. . Note also the base member 12 having female screw (thread follower means), see column 1, lines 49-50, which also effect a port guide

means for the threaded shaft 5. The means 3 is reciprocated to remove articles from the support 19(see the abstract), and from this it, would be inherent that the drive for the shaft would be one of a bidirectional drive to effect the reciprocation of the means 3 (claims 19 and 20). In regard to claim 15, note the supports 4 in figures 1 and 5 to effect the stabilization of the base \*\*. To modify Taketsugu et al's article removal means 3 for one having a pivotal and biased 'head' member would be obvious in view of the teachings of Cunningham's use of the head member 139 in figure 29 pivoted upward at an angle towards the article to be removed, and having a spring 142 positioned between the head and the base 138 so as to provide a better engagement of the article removal means to the article for improved removal of the article.

5. Claims 6,7,9,17and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Taketsugu et al in view of Cunningham\*\* as applied to claims 1- 5,8,10,15,19 and 20\*\*\* above, and further in view of \*Morgenstern et al. To modify Taketsugu et al's reciprocating drive for one utilizing dual threads and a unidirectional drive motor, would be obvious in view of the teaching of Morgenstern et al's use of the dual threads 120 and the unidirectional drive motor 112 to also reciprocate the member 124\*,so as to provide an alternate reciprocating drive utilizing the dual threaded shaft and a unidirectional drive motor.\*

6. If the indefiniteness in paragraph 2 above is corrected, then claims 11-14,16 and 21 would be considered allowed if rewritten in independent form to include any intervening claims.

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7. Anderson is cited showing in figure 7 another biased 'head' member 80 angled onto the stack of articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday, each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Kenneth W. Noland 7/11/2005*

**KENNETH W. NOLAND  
PRIMARY EXAMINER**